

**REMARKS**

Claims 1-5 are all the claims pending in the application. Claims 1-5 presently stand rejected.

**Claim Rejection Under 35 U.S.C. § 102**

Claims 1-5 are rejected under 35 U.S.C. § 102(b) as being anticipated by *previously cited* Inoue (US 5,873,667).

As discussed during the telephone interview, Applicant has amended claim 1 to recite that *the cylindrical fitting member is not in contact with the cylindrical holding member* (while also deleting the *previously added* recitation that the inner surface of the cylindrical cover fits to the outer surface of the fitting member). This amendment finds support in the original specification at least by the exemplary embodiment shown in FIG. 2, in which there is a space between the fitting member 7 and the holding member 4.

This configuration allows the cylindrical holding member to be rotated in a smooth manner to extend/retract a stick-type cosmetic material because there is no friction between the fitting member and the holding member. In addition, the space between the fitting member and the holding member results in reduced wear and deformation of the fitting member when attaching a removing the cylindrical cover and provides a buffering effect against external impacts.

Applicant respectfully requests the Examiner to withdraw the rejection of claim 1 at least because Inoue does not disclose or suggest this feature of *the cylindrical fitting member not being in contact with the cylindrical holding member*.

In contrast, as shown in, for example, FIGS. 18A and 18B of Inoue, the insert sleeve 7 (asserted by the Examiner as corresponding to the recited fitting member) *is in contact with* and “airtightly encircles the main body 3 (asserted by the Examiner as corresponding to the recited holding member).<sup>1</sup> This results in reduced mobility when the sleeve 7 is rotated to extend retract the stick-like cosmetic 37. Further, wear between the sleeve 7 and the main body is generated by rotation of the sleeve 7.

Thus, Applicant respectfully requests the Examiner to withdraw the rejection of independent claim 1.

In addition, Applicant respectfully requests the Examiner to withdraw the rejection of dependent claims 2-5 at least because of their dependency from claim 1.

### **Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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<sup>1</sup> See Inoue at 6:40-46.

AMENDMENT UNDER 37 C.F.R. § 1.116  
Application No.: 10/584,836

Attorney Docket No.: Q95579

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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